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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,312	10/01/2004	Rolf-Dieter Pavlik	2002P03970WOUS	6251
7590 08/09/2007 Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			EXAMINER LI, GUANG W	
			ART UNIT 2109	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/510,312

Applicant(s)

PAVLIK ET AL.

Examiner

Guang Li

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07/11/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: Remark date 07/11/2007.
2. Claims 10-29 are presented for examination.
3. The rejections are respectfully maintained and reproduced infra for applicant's convenience.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 10-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Modeste et al. (US 2003/0056012 A1).
6. Regarding claim 10, Modeste discloses a web server (Web server in “devices in the home through the internet using a dot.com web server that allows access to the home place web page” see abstract; Fig 2A element 140) comprising software modules (software platform for implementing the system see FIG.2A element 30; FIG.2B; “ Page 8 ¶[0084] lines 1-2), wherein at least one (at least one of devices connected to web server like digital utility meters and smart appliances and server facilities see ¶[0003] lines 8-10) first software module comprises a first mechanism for implementing an

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automation functionality (home automation functionalities that obtain with respect to the home and its install devices see Page 1 ¶[0006] lines 1-4; Page 8 ¶[0079] lines 1-2) and a second mechanism for accessing (access the web server in "From a browser login 300 in a user gains access to web server listening for a user login block see page 4 ¶[0051] lines 1-2) a real-time operating system (communicate with the automation function through controller board, which runs the real time operating system page 3 ¶[0045] lines 2-4).

7. Regarding claim 28, Modeste discloses an automation system (home automation system in "The present invention affords enhanced home automation functionality over prior art systems by providing for the convergence of home automation" see page 1 ¶[0003] lines 1-8) comprising a web server (Web server in "devices in the home through the internet using a dot.com web server that allows access to the home place web page" see abstract; Fig 2A element 140), wherein the web server comprising software modules (software platform for implementing the system see FIG.2A element 30; FIG.2B; " Page 8 ¶[0084] lines 1-2); wherein a first software module comprises a first mechanism for implementing an automation functionality (home automation functionalities that obtain with respect to the home and its install devices see Page 1 ¶[0006] lines 1-4; Page 8 ¶[0079] lines 1-2) and a second mechanism for accessing (access the web server in "From a browser login 300 in a user gains access to web server listening for a user login block see page 4 ¶[0051] lines 1-2) a real-time operating system (communicate with the automation function through controller board, which runs the real time operating system page 3 ¶[0045] lines 2-4).

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8. Regarding claim 29, Modeste discloses a computer program product (system utilizes the connection between the internet and a user's home via a website see page 1 ¶[0004] lines 1-4) comprising a web server (Web server in "devices in the home through the internet using a dot.com web server that allows access to the home place web page" see abstract; Fig 2A element 140) comprising software modules (software platform for implementing the system see FIG.2A element 30; FIG.2B; " Page 8 ¶[0084] lines 1-2), wherein a first software module comprises a first mechanism for implementing an automation functionality (home automation functionalities that obtain with respect to the home and its install devices see Page 1 ¶[0006] lines 1-4; Page 8 ¶[0079] lines 1-2) and a second mechanism for accessing (access the web server in "From a browser login 300 in a user gains access to web server listening for a user login block see page 4 ¶[0051] lines 1-2) a real-time operating system (communicate with the automation function through controller board, which runs the real time operating system page 3 ¶[0045] lines 2-4).

9. Regarding claim 11, Modeste discloses the web server according to claim 10, wherein the web server comprises a connection (connections between the Internet and the C-gateway server see FIG2A; FIG2B) to a communications network (The gateway connection interfaces the internet connection to a supervisory home automation controller and a home pc" see FIG.1 element 94; page 1 ¶[0004] lines 4-7).

10. Regarding claim 12, Modeste discloses the web server according to claim 11, wherein the communications network is the Internet (computer network and home systems access through the Internet see page 1 ¶[0004] lines 4-7).

11. Regarding claims 13 and 14, Modeste discloses the web server, wherein internet protocols (communication protocols permit communication between the devices and server facilities accessible on the Internet see page1 ¶[0004] lines 13-15) are provided for communication (communication between the installed devices and a web and an emulator within the gateway see abstract lines 8-11) between the software modules (software platform for implementing the system see FIG.2A element 30; FIG.2B; " Page 8 ¶[0084] lines 1-2) and for communication between the software modules and components outside the web server (server facility provide communication between a net device and server see page 1 ¶[0005] lines 3-7).

12. Regarding claim(s) 15-17, Modeste discloses the web server is adapted for configuring (The timing between heartbeat packets is determined by configuration data in the gateway see page 5 ¶[0056] lines 3-4) and administrating (website provides authentication and access to the local webpage where all the information about the devices see page 2 ¶[0035] lines 7-10) the software modules.

13. Regarding claims 18-21, Modeste disclose the web server, wherein the first software module comprises a connection (connections between the C-gateway server and Networked Home PC1 or 2 see FIG1) with an industrial (The term "home" implies to not only to residential house structure also applied to Commercial facility see page 2 ¶[0034] lines 24-28) automation system (home automation system in "The present invention affords enhanced home automation functionality over prior art systems by providing for the convergence of home automation" see page1, ¶[0003] lines 1-8)

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14. Regarding claims 22-24, Modeste discloses the web server comprises a connection (connections between the Internet and the C-gateway server see FIG2A; FIG2B) to the Internet (computer network and home systems access through the Internet see page 1 ¶[0004] lines 4-7) using a firewall (Firewall, authentication and access see FIG.4; page 3 ¶[0041] line 8).

15. Regarding claims 25-27, Modeste discloses the web server is connected by a communications network (The gateway connection interfaces the internet connection to a supervisory home automation controller and a home pc" see FIG.1 element 94; page 1 ¶[0004] lines 4-7) to a web browser (web communicator see FIG 2B element 34; page1 ¶[0003] lines 15-17) as an operating (Home users operating and access to the web server through internet see page 2 ¶[0037] lines 2-5) and monitoring (LCD display show the status of devices see FIG.10; page 3 ¶[0045] line 21) system.

### ***Response to Arguments***

16. Applicant's arguments filed 07/11/2007 have been fully considered but they are not persuasive.

17. Applicant argues in substance that Modeste teaches that an automation controller 60 separate and distinct from the gateway 30 and it's clearly different from applicant's arrangement wherein claimed "automation functionality" is within a software module of the web server. The examiner disagrees with the applicant that Modeste does not teach automation functionality is within a software module of the web server. The examiner interprets a web server is a combination of C-Gateway (**element 30**) and

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C-Automation Controller (**element 60**) as the automation system that provide automation control over the home devices. The C-Gateway and C-Automation Controller each are implement with automation functionality module to allows a home user to control such things as lights and electrical outlets by dimming or on/off switching (**¶[0079]**). The general invention disclosed by Modeste is directed to automation functionality, the functionality is the same as claim invention. Therefore, the software module would be within the server.

18. In further Applicant argues in substance that Modeste does not show the feature of the Automation functionality being within a software module of the web server instead of a separate controller, however this is not positively recited in the claims. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., automation functionality is within a software module of the web server not separate and distinct from the gateway) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### **Conclusion**

19. The following prior art made of record and not relied upon is cited to establish the level of skill in the applicant's art and those arts considered reasonably pertinent to applicant's disclosure. See **MPEP 707.05(c)**.



The following reference teaches execution of trial data.

- US 6,411,987 (Steger et al.) ***Industrial automation system and method having efficient network communication*** teaches a system and method of industrial automation providing improved network transfer for data between nodes.
- US 6,505,247 (Steger et al.) ***Industrial automation system and method for efficiently transferring time-sensitive and quality-sensitive data*** teaches industrial automation system and method which provides improved network transfer of data between different nodes.
- US 2003/0041107 (Blattner et al.) ***Method and Apparatus for community network communication*** teaches a central community system can provide services to community member without unnecessary redundancy created by installing systems on an individual basis.
- US 6,643,555 (Eller et al.) ***Method and apparatus for generating an application for an automation control system*** teaches creating control/monitoring application for the automation control system.
- US 6,788,980 (Johnson) ***Methods and apparatus for control using control devices that provide a virtual machine environment and that communicate via an IP network*** teaches improved methods and apparatus for control using field and control devices that provide a virtual machine environment over IP network.

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20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guang Li whose telephone number is (571) 270-1897. The examiner can normally be reached on Monday-Friday 8:30AM-5:00PM(EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 24, 2007  
Guang Li  
Patent Examiner

  
JAMES K. TRWILLO  
PRIMARY EXAMINER  
TC 2100